



Non-competes Reform Unit
Competition and Consumer Policy Division
Treasury
Sent via: competitiontaskforce@treasury.gov.au

5 September 2025

Dear Non-competes Reform Unit,

Speech Pathology Australia thanks Treasury for the opportunity to provide input to this consultation. Speech Pathology Australia (SPA) is the national peak body for speech pathologists in Australia, representing more than 16,000 members. Speech pathologists are university-trained allied health professionals with expertise in the assessment, diagnosis and treatment of communication and swallowing difficulties.

We welcome the opportunity to highlight considerations specific to the healthcare context. At this stage Speech Pathology Australia does not adopt a formal position but instead wishes to outline matters that warrant attention as reforms are progressed. In particular, we note that non-compete and non-solicitation clauses operate in distinct but interconnected ways, with important implications for continuity of care, and client access and choice. Reforms must also strike a balance between supporting employee mobility and maintaining legitimate business interests, particularly in small business and thin-market contexts. Finally, careful implementation will be essential, including clear guidance, transitional arrangements, and recognition of the ethical and clinical responsibilities that shape healthcare practice.

We anticipate contributing further at exposure draft stage, which may also involve broader consultation with our members.

Speech Pathology Australia's understanding of non-compete and non-solicitation clauses

For the purposes of this submission, we write with the following understanding:

- Non-compete clauses are contractual terms that prohibit, penalise or otherwise prevent a worker from seeking or accepting work with another employer, or from operating a business, after leaving employment.
- Non-solicitation clauses are terms that restrict a former employee from encouraging or accepting work from their previous employer's clients, customers, suppliers or co-workers. They do not prevent a worker from starting a business or joining a competitor, but they limit the continuation of existing professional relationships. The concept of "solicitation" can be interpreted broadly, sometimes extending even where a client independently approaches the worker.

Non-compete clauses

The government has announced that non-compete clauses will be banned for workers earning below the high-income threshold.

From the perspective of clients, removing non-compete clauses may improve access to services by enabling speech pathologists to establish new practices or join competitors more freely. Geography is a particular consideration: while this issue can arise anywhere, regional, rural and remote communities may be more affected. For example, where a speech pathologist is prevented from opening another clinic within a specified distance, clients in that area may temporarily lose access to that clinician unless they travel further. This may reduce local availability of practitioners until additional staff are recruited.

From an employee perspective, the removal of non-compete clauses may provide greater freedom to move between roles or to establish a new practice, supporting professional mobility and career

development. At the same time, it would be beneficial for clearer government guidance on what constitutes a reasonable restraint. Without such guidance, there is potential for employees to agree to terms without understanding their legal effect, which may create uncertainty about their rights and obligations and lead to inconsistent experiences across different workplaces. As the consultation paper notes, “stakeholders expressed concerns that the enforceability of restraints is often unable to be tested due to the prohibitive and disproportionate costs of litigation,” highlighting the practical limitations of relying on case law to define what is reasonable.

For employers, the removal of non-compete clauses may raise questions about how to balance legitimate business interests with the benefits of increased workforce mobility. The consultation paper itself acknowledges that mechanisms may be needed to support this balance, such as time-limited restrictions, clearer guidance on what is considered reasonable, or sector-specific transitional arrangements. There is also a broader cultural consideration for the sector: if business owners feel unable to maintain stability in the face of greater employee mobility, some may prefer to operate as sole practitioners rather than employing staff. This could reduce the diversity of practice structures and limit the growth of collaborative or larger service models. If a substantial proportion of the workforce were to operate as sole traders, it may also raise concerns about challenges in accessing peer support and oversight that team-based environments provide.

The consultation paper also raises mandatory compensation as a possible safeguard where non-compete clauses remain in use. Requiring employees to compensate employers is unlikely to be viable in allied health, where many small business owners are speech pathologists operating with thin margins. SPA’s 2024 submission to the National Disability Scheme (NDIS) Pricing Review¹ highlighted that a significant proportion of providers are already unable to cover their costs under current funding arrangements, raising concerns about long-term sustainability. In this context, requiring speech pathology practices to absorb further financial risk would disproportionately affect smaller businesses, which may lack the financial buffer of larger providers. Ensuring the sustainability of practices is critical to maintaining service availability and access for consumers.

Non-solicitation clauses

The Government has not yet determined whether to restrict non-solicitation clauses.

In the healthcare context, these clauses can have implications for continuity of care. We hear of instances where, upon an employee’s departure from a practice, non-solicitation clauses have prevented clients from continuing with their chosen speech pathologist. This has the potential to disrupt therapeutic relationships, delay treatment, or reduce effectiveness. In some circumstances this may result in prolonged waiting periods or a more limited range of provider choice, as the speech pathology workforce is both in undersupply and unevenly distributed across Australia.

For employees, the removal of non-solicitation clauses may reduce perceived or actual conflicts between contractual obligations and professional ethical duties to act in clients’ best interests. Under professional codes of ethics, speech pathologists are expected to prioritise continuity of service and to support clients in making informed choices. Non-solicitation clauses can limit their ability to do so by preventing them from continuing with clients who seek to follow them. It may also provide clearer legal boundaries and reduce the risk of litigation.

However, if non-solicitation clauses remain permissible while non-competes are banned, there may be uncertainty about how the two operate in practice. Non-solicitation is sometimes perceived as being linked to non-compete, and distinguishing between them may not always be straightforward. Clear government guidance on their separate treatment would assist employers and employees to understand their rights and obligations with greater certainty.

For employers, we have received reports suggesting that removal of non-solicitation clauses may affect the stability of their caseloads and established therapeutic relationships within a practice. Their removal could result in immediate and significant client loss, destabilising small and medium

¹ [Submission available via SPA website.](#)

practices in particular. Even where departing clinicians do not actively solicit clients, their whereabouts can often be easily found through social media or advertising, and in some cases a large proportion of a practice's caseload may seek to follow them, creating sudden instability.

In such circumstances, employers may be reluctant to invest in staff development if they fear that clinicians could depart and take their caseloads with them, reducing the return on that investment. This dynamic has the potential to create instability for small and medium practices, particularly if a large proportion of clients choose to follow a departing clinician.

Implementation considerations

Implementation arrangements will be critical. Transitional measures such as grace periods, requirements for employers to notify employees and clients of changes, sector-specific education resources, and model contract clauses for small businesses will assist adaptation. Many speech pathology practices are small businesses, and rewriting contracts will be costly. To ensure effective implementation, small businesses must be supported to understand their obligations and how to meet them.

Speech Pathology Australia encourages Treasury to carefully consider the unique implications of non-compete and non-solicitation clauses in the healthcare sector, where the rights of clients, employee mobility and business sustainability all intersect. Professional ethical obligations already require transparency and prioritisation of clients' interests. Any reforms should also recognise that access to healthcare is essential, that services are already stretched, and that thin markets increase the risks of destabilisation. Small businesses providing these services are under considerable strain, and changes may increase exposure to contract disputes, litigation, and additional costs.

We look forward to engaging further at exposure draft stage and would welcome the opportunity to provide additional input from our members at that time. Please contact Dr Jennifer O'Connor, Chief Policy and Advocacy, by emailing policy@speechpathologyaustralia.org.au if we can provide further assistance.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Lyn Brodie', with a stylized flourish at the end.

Lyn Brodie

Chief Executive Officer